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Held at the Palais des Nations, Geneva,
on Thursday, 14 November 1991, at 10 a.m.

Chairman: Mr. VOYAME

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Initial report of the Czech and Slovak Federal Republic (CAT/C/7/Add.12)

1. At the invitation of the Chairman, Mr. Karabec, Mr. Reis, Mr. Dusek and Mr. Pinter (Czech and Slovak Federal Republic) took places at the Committee table.

2. Mr. KARABEC (Czech and Slovak Federal Republic) informed the Committee that, since his country signed the Convention against Torture on 8 September 1986, the internal political and social situation had changed radically as a result of the abolition of the totalitarian communist regime. The November 1989 revolution had led to the establishment of a democratic social system and of a State governed by the rule of law. The previous regime had formally declared respect for international human rights conventions, but it had often violated the provisions of those instruments, and that was why the Czech and Slovak Federal Republic paid so much attention to legal guarantees to ensure that all articles of the Convention were consistently observed in practice.

3. The report before the Committee (CAT/C/7/Add.12), which described the main provisions of the Czechoslovak legal system concerning matters relating to the Convention, replaced the original text of the report and reflected the current situation in the Republic. He would also provide further information relating in particular to the field of penology, as most cases of cruel or degrading treatment occurred in corrective institutions, either during custody or imprisonment.

4. Czechoslovakia was currently preparing two bills, the first of which concerned terms of custody, which had, in the past, been regulated by a custody term order issued by the Ministry of Justice and the Prosecutor General. The bill specified which civil rights of persons remanded in custody could be restricted and to what extent, as well as the conditions for the period of custody. It excluded any treatment that would be inconsistent with the Convention in order to guarantee a humane term of imprisonment and respect the presumption of innocence of the prosecuted person.

5. The second bill related to the establishment of a primarily civilian Prison Guard to replace the Correction Corps and to be in charge of the enforcement of custody and prison terms. The bill would enumerate the coercive measures which prison guards could take against persons remanded in custody or serving a prison term and would stipulate that such measures must not be inconsistent with article 1 of the Convention.

6. The number of persons in prison in Czechoslovakia had declined from 40,000 in 1988 to about 19,000 as a result of a broad amnesty declared by President Havel in early 1990. Unfortunately, the number of offenders was expected to increase on account of growing criminality. The 11,000 members of the prison staff in Czechoslovakia had been evaluated in 1990 to determine their skills and moral aptitude because some of them had been involved in

human rights violations before the November 1989 revolution. As a result of that evaluation, some 7 per cent of prison staff had left the prison service in the Czech Republic. A similar process was under way in the Slovak Republic in order to ensure that persons involved in the treatment of offenders were fully qualified, both professionally and morally.

7. Act No. 179/1990 on the Execution of Prison Sentences stressed the need for greater protection of the human dignity of convicts and its article 1, relating to the purpose of imprisonment, had been supplemented by a request that the inherent dignity of convicts as human beings should be respected and by a ban on cruel or degrading treatment and punishment.

8. Towards the end of 1990, the situation in corrective institutions in the Czech and Slovak Federal Republic had been inspected by representatives of Helsinki Watch, which had submitted its official report to the Czechoslovak authorities. It had found that the situation in the country's prison system had improved radically in comparison with that situation before 1989, when human rights violations had been commonplace. Despite some shortcomings in material conditions of detention, which were attributable to the state of neglect of prisons, the representatives of Helsinki Watch had appreciated the resolute and persistent efforts of the prison system's managerial bodies to reform the conditions in prisons. The representatives of Helsinki Watch, who had inspected a number of prisons and spoken to both prisoners and guards, had found no instances of violations of human rights or of treatment which would be inconsistent with the spirit and letter of the Convention. He would distribute a copy of the report by Helsinki Watch to the Committee.

9. On 10 July 1991, the Parliament of the Czech and Slovak Federal Republic had adopted Act No. 333/1991 on the Federal Police Corps and the Castle Guards Corps and Act No. 334/1991 on the service employment of members of the Federal Police Corps and the Castle Guards Corps, which had both entered into force on 27 August 1991. Those new legal provisions were entirely in keeping with the articles of the Convention.

10. A major reorganization of the police force involving the establishment of a Federal Police Corps and a Police Corps in each Republic was under way in the country. The members of the police force had been evaluated by professional and independent civil commissions. The aim of the reorganization was to bring the police force under efficient public control to be exercised by members of special committees both in the Federal Assembly and the national Parliaments.

11. Article 7.1 of Act No. 333/1991 established the obligation of police officers to respect the honour, reputation and dignity of persons, as well as their own honour, and to prevent the commission of any unreasonable wrongs and infringements of individual rights and freedoms. Article 24.3 of Act No. 334/1991 made it the duty of a policeman to refuse to obey an order of his superior if, by obeying it, he would commit a criminal offence. That provision established the principle that an order from a superior officer could not justify torture and ensured that the offender could not evade responsibility for the crime.

12. When the Czech and Slovak Federal Republic had ratified the Convention in 1988, it had made a reservation to article 20 concerning cooperation between States parties and the Committee in verifying information on the systematic practice of torture and it had still not recognized the Committee's competence under article 22 to receive and consider communications from individuals. He informed the Committee that his country intended to withdraw its reservations to article 20 of the Convention and to make the declaration required by article 22. It also intended shortly to ratify the European Convention for the Prevention of Torture and Other Cruel or Degrading Treatment or Punishment, which provided for inspections of establishments in which persons were deprived of their liberty, and would support the elaboration and adoption of an additional protocol to the Convention against Torture to establish similar international monitoring machinery.

13. Mr. MIKHAILOV (Country Rapporteur) commended the Czechoslovak delegation on the additional information it had provided and said that all members of the Committee were aware of the legal situation in the Czech and Slovak Federal Republic, which had become a classical European democracy after the overthrow of the totalitarian system. He expressed his satisfaction that, during the past two years, the Czechoslovak Government had adopted legislation to ensure conformity between its domestic legislation and the Convention.

14. Paragraph 7 of the report described the Charter of Fundamental Rights and Freedoms as a fundamental legal regulation providing protection against acts which the Convention aimed to suppress. He asked whether the Charter contained any specific provisions concerning torture and whether it incorporated article 5 of the Universal Declaration of Human Rights or article 7 of the International Covenant on Civil and Political Rights. He also wished to know more about the substantial amendments to the Penal Code and the Code of Penal Procedure mentioned in paragraph 9 and whether they related not only to political offences, but also to acts of torture.

15. In paragraph 15, it was stated that there was no need to define the specific offence of torture in Czechoslovak penal law, and that argument had also been put forward in paragraph 40. He asked whether the provisions of Czechoslovak penal law fully covered acts of torture as defined in article 1 of the Convention. Paragraph 18 referred to section 158 of the Penal Code on abuse of the authority of a public official, but it appeared to be a fairly abstract and general provision. He asked whether there had been any cases in which officials had been prosecuted for acts of torture under section 158. The other sections of the Penal Code referred to in paragraph 41 in support of the claim that Czechoslovak law was in conformity with the requirements of article 4 of the Convention were also of a general nature and none of those cited made any specific mention of torture. He wished to know whether it was possible to classify torture as a specific offence under those provisions. The prison sentence of six months to three years for officials guilty of offences under section 158 of the Penal Code, as mentioned in paragraph 18, also appeared to fall short of the "appropriate penalties" required by article 4 of the Convention.

16. Section 3, paragraph 2, of Act No. 40/1974 on the National Security Corps allowed the NSC to interfere with the rights and freedoms of citizens if required for the protection of the social and State system, public order or

the security of persons or property. That provision was very broad and he wondered whether there were any grounds for restricting the authority conferred on the NSC by the Act. He also inquired how the requirement of section 15, paragraph 1, of the Act that members of the NSC should respect the honour, reputation and dignity of citizens was enforced in practice. He would appreciate information on how the acts of the National Councils of the Czech and Slovak Federal Republic and of the Federal Assembly on the police, which were referred to in paragraph 20 would regulate the activities of the police in combating torture and on how the principle of the rule of law was to be guaranteed. In addition, he wished to know whether there were any specific cases in which a member of the NSC had refused to obey an order from a superior on the grounds that it would mean committing a criminal offence.

17. Paragraph 22 of the report generally described the legal remedies available to Czechoslovak citizens, but he would appreciate statistics on the number of cases in which the courts and the prosecutor had provided protection for the rights of citizens, not only in general, but in relation to torture as well. The provisions relating to loss or injury caused by unlawful official action were described in paragraph 25 of the report, but the Committee would require more detailed information on how compensation machinery operated in practice.

18. Paragraph 27 of the report recognized that most violations of the Convention occurred in correctional institutions and in military establishments, but it contained no specific data, a shortcoming which the Czechoslovak delegation could remedy by providing additional information to that given in paragraph 28 on the number of cases of ill-treatment of persons sentenced to prison terms since 1989. In order to substantiate the claim made in paragragh 31 that torture was relatively rare in Czechoslovakia, the delegation might also provide data on how many investigations and trials had taken place since 1990 and what sentences had been handed down for serious criminal offences amounting to breaches of the country's obligations under the Convention.

19. With regard to paragraph 34 of the report, he asked how many complaints had actually been lodged and what action had been taken on them, in how many cases the principle aut dedere aut judicare mentioned in paragraph 47 had been applied since 1987 and whether the obligation, referred to in paragraph 49, for an investigator to institute criminal proceedings "without delay" was subject to a specific deadline.

20. Ms. CHANET thanked the representative of the Czech and Slovak Republic for his introductory statement and commended the quality of the report. The reforms that had been introduced in the country over the past two years, a very short time in the life of a nation, were to be welcomed.

21. She had taken note of the Republic's intention to withdraw its reservation to article 20 and to make the declaration provided for under article 22. The Committee would be most interested to know what legislation was to be adopted, and what administrative measures taken, to give full effect to the Convention in that regard. It was true that the new Constitution would provide a good basic framework for the protection of human rights, but it

would not in itself be enough to guarantee that the spectre of torture might not rise again from the ashes of the past. That was why the Convention was couched in very specific terms.

22. Paragraph 10 of the report quoted a provision of the Code of Penal Procedure which required officials to act "in accordance with the importance and educational purpose of criminal proceedings". She would appreciate clarification of the meaning of that phrase, since criminal proceedings would have an educational purpose only after sentence had been passed; before being proved guilty, the accused person was to be presumed innocent. Was the presumption of innocence guaranteed in the Republic?

23. It was stated in paragraph 20 that laws governing the police were to be brought "more in line with international standards". Could the Committee be told how those laws were to be amended and whether "international standards" included the standards of the Convention?

24. Paragraph 23 stated that "the right of petition" was guaranteed, whereas paragraph 24 referred only to "the right to file charges". She would be interested to know what machinery existed for making petitions and what the outcome was when groups or individuals availed themselves of that right. Could the Czechoslovak delegation provide some specific examples?

25. As was often the case in reports by States parties, the report under consideration made no mention of measures taken to give effect to article 1 of the Convention. However, in view of the very precise definition of torture given in that article, it would be useful for the Committee to be provided with extracts from Czechoslovak legislation to enable them to judge whether they adequately reflected the content of that definition. It was claimed in paragraph 15 that there was no need to define the offence of torture, since current penal law covered all acts: however, the legislation quoted gave rise to some doubts. Abuse of authority by a public official, for example, was defined in section 158 of the Penal Code as acting with the intent to cause damage to another person, or to obtain unauthorized benefit, and that was not at all in line with the definition of torture in article 1. There were many forms of torture, both sophisticated and less sophisticated, that were not covered by the definitions of criminal offences referred to in paragraph 41 and including violence against groups or individuals, injury to health, murder, etc. As she saw it, the provisions quoted were not enough to satisfy the requirements of articles 1 and 4.

26. Where article 3 was concerned, much was said about extradition, but very little about expulsion and refoulement, except in relation to the 1951 Convention relating to the Status of Refugees. In fact, article 3 had been included in the Convention precisely in order to cover cases that were not within the scope of the 1951 Convention. Its object was to protect against expulsion or refoulement persons who in their country of destination were in danger of being tortured not on grounds of race, religion, nationality or politics, but simply because the country concerned practised torture systematically and had no control over the actions of its police.

27. On the question of universal jurisdiction, she was somewhat concerned by the statement in paragraph 46 that Czechoslovak law would be applicable in the

case of offences committed abroad by aliens, provided that the offence was also punishable under the law in force in the territory where it had been committed. If an act of torture was committed in a State where torture was considered normal, that State would be unlikely to punish the offence. Could the Committee be told whether the provision quoted in paragraph 45, whereby Czechoslovak law would be applicable in cases where international treaties applied, had precedence over the provision referred to in paragraph 46?

28. Paragraph 52 listed a number of exceptions to the institution proceedings for criminal offences. She would appreciate an explanation of what was meant by the words "exempt from the jurisdiction of the organs acting in criminal proceedings" in subparagraph (c); did they imply complete immunity?

29. The section of the report dealing with article 11 was somewhat brief. It would be useful for the Committee to have information on the maximum period a person could be detained in custody and on whether such a person was allowed access to counsel. Were there rules governing interrogations, covering, for example, the presence of a doctor, the time that should elapse between interrogations, contact with family and the outside world, the use of solitary confinement and how soon arrested persons had to be brought before a judge? The section should specify what guarantees detained persons enjoyed and how rules and practices in that regard were kept under review.

30. Mr. SORENSEN joined in commending the report and the oral introduction and congratulated the Czechoslovak delegation on the significant developments which had taken place in the country in the past few years.

31. Where the application of article 10 was concerned, he had been impressed to learn that the Government had got rid of some of its police officers and was endeavouring to reeducate the remainder. However, article 10 required medical as well as law enforcement personnel to be educated about the prohibition against torture. That was especially important because it was an unfortunate fact that doctors often played a leading part in performing acts of torture.

32. Where article 14 was concerned, he was glad to note from paragraph 11 of the report that a person who had suffered infringements of his right to protection of the person would be given "appropriate satisfaction" and also "pecuniary compensation". However, article 14 also required that victims of torture should be given as full rehabilitation as possible and, in his view, that should include medical rehabilitation. A rehabilitation centre for such victims had recently been set up in Prague and he would suggest that it should be given the Government's support.

33. Mr. GIL LAVEDRA said he had nothing to add to the questions that had already been raised. He wished only to congratulate the Government of the Czech and Slovak Federal Republic on the efforts it was making to adapt all its existing norms to a democratic system based on respect for human freedom and dignity.

34. Mr. BURNS said he had been most impressed by the way Czech and Slovak Federal Republic had incorporated into its new constitution the obligations it had assumed under the Convention, thus giving those obligations the highest

degree of protection. Under the Charter of Fundamental Rights and Freedoms adopted in January 1991, torture and any other cruel, inhuman or degrading treatment or punishment was prohibited. That was a more effective measure than simply enacting legislation and the country was to be commended for giving the matter such high priority. He noted that the provision in the Code of Penal Procedure governing confessions, as referred to in paragraph 66 of the report, was modelled directly on the wording of article 15 of the Convention and the Government was to be complimented on having complied so fully with its obligations in that regard.

35. He had only one question to ask: how were judges appointed in Czechoslovakia, and how was the independence of the judiciary guaranteed?

36. Mr. KHITRIN said that he also welcomed the excellent Czechoslovak report and was pleased to note the Government's intention of withdrawing the reservations it had made when ratifying the Convention.

37. He would appreciate some rather fuller information than that given in paragraph 59 as to how article 11 of the Convention was complied with in connection with the duration and conditions of pre-trial detention. Which officials were entitled to make arrests and what guarantees had persons who were detained in custody? What control was exercised over police responsible for conducting interrogations? Where return, refoulement or extradition were concerned, what legal measures had been taken to implement article 3, paragraph 2, which required the competent authorities to take into account relevant considerations, including the existence in the State concerned of a consistent pattern of gross violations of human rights?

38. With regard to article 5, he wished to know whether torture was included among offences committed abroad and whether the Czechoslovak Government could institute proceedings in the case of an offence perpetrated by a foreigner against another foreigner in another country.

39. As to article 7, he was somewhat surprised to note from paragraph 52 that persons enjoying privileges and immunities were exempted from prosecution under section 2, paragraph 3, of the Code of Penal Procedure. Why should such persons be exempt where criminal offences were concerned? He would like to know at what stage in criminal proceedings the presence of counsel for the accused was authorized. In connection with article 15, what legal provisions were there to ensure that any statement made as a result of torture could not be invoked as evidence in court?

40. Mr. DIPANDA MOUELLE said that he associated himself with the tributes paid to the report. He too would like to know how in general terms the Czechoslovak judicial system was structured. Did prison conditions comply with United Nations standards to the extent that prisoners were entitled to complain to the authorities in cases of ill-treatment or torture?

41. Referring to article 3, he asked whether Czechoslovak legislation afforded protection to foreigners threatened with expulsion and whether such persons could lodge an appeal before a court? With reference to paragraph 66, he would like to know whether "evidence obtained through unlawful coercion" was to be understood as including statements established to have been made as a result of torture under the terms of article 15.

42. Mr. PERLAS, referring to paragraph 33 of the report, noted that, under Czechoslovak law, orders from a superior could in no way justify torture. He would like to know how, in cases where subordinates refused to carry out orders by a superior, they were protected from possible retribution. What penalty would be imposed on superiors in such situations?

43. He would appreciate further details on regulations governing detention in custody, after the individual had been arrested and before he had been brought to court. Was the presence of a lawyer required during that period?

44. The CHAIRMAN congratulated the Czechoslovak delegation on a clear and detailed report. He had only a few questions to add to those already raised.

45. It would appear from paragraph 22 that the prosecutor monitored observance of the law in criminal proceedings. If that was so, how was the independence of the judiciary guaranteed? He shared Ms. Chanet's concerns regarding paragraphs 35 and 39; the requirements of article 3 of the Convention did not seem to be fully met by the provisions referred to, unless that article was taken to be applicable directly. Similarly, he feared that the provisions quoted were not sufficient to ensure that all acts of torture were regarded as criminal offences, as required by article 4; in particular, it was not clear how psychological torture was penalized.

46. With regard to article 6, paragraph 48 stated that suspects could be taken into custody even before the application for extradition had been submitted. However, the provisions of the Code of Penal Procedure quoted seemed to presuppose that a request for extradition had been found admissible. He pointed out that, according to article 6, custody could be continued only for as long as necessary to enable proceedings to be instituted.

47. As to article 10, paragraphs 56 to 58 referred chiefly to laws and regulations, but education and training, particularly of prison staff, was also crucial. With reference to paragraph 59, article 11 required systematic monitoring not only of regulations governing interrogations, but also of how those regulations were being applied. He would appreciate comments on that point.

48. The question raised by Mr. Dipanda Mouelle could perhaps be answered by reference to paragraph 67, which quoted a provision to the effect that, in the course of interrogations, the dignity of the accused person should be respected.

49. Lastly, he would like to know whether any complaints of torture or ill-treatment had been made in recent years. If so, had the perpetrators been punished, either by court convictions or by disciplinary measures, and had compensation been provided for the victims?

Initial report of Libyan Arab Jamahiriya (CAT/C/9/Add.7)

50. At the invitation of the Chairman, Mr. Hafyana, Mr. Omar, Mr. Al Mohadzabi and Mr. El Fakih Saleh (Libyan Arab Jamahiriya) took places at the Committee table.

51. Mr. HAFYANA (Libyan Arab Jamahiriya), describing the legal framework for the application of the Convention in his country, said that the provisions of the Convention were binding nationally and that, in the event of any conflict with existing domestic provisions, it prevailed over internal legislation. Any person was therefore entitled to invoke the provisions of the Convention before a Libyan court.

52. In addition, domestic legislation itself offered protection from torture and other, cruel, or degrading treatment. It provided guarantees of respect for the fundamental freedoms of the individual in general and entitled any person to complain of non-observance or abuses in that regard, in accordance with article 2 of the Civil Code. Any law which was not based on the rules of fairness could be denounced before the courts and the case could be heard in the final instance by the Supreme Court. Where article 4 of the Convention was concerned, moreover, article 435 of the Penal Code provided that any official committing or ordering torture of accused persons was liable to imprisonment. As stated in the report (CAT/C/9/Add.7), articles 431 to 434 of the Penal Code also offered protection against torture. Under article 36 of the Code of Criminal Procedure, no person could be arrested except by the competent authorities and by order of the judicial authorities. Article 30 of the Code of Criminal Procedure upheld article 13 of the Convention.

53. With regard to article 14 of the Convention, article 166 of the Civil Code provided for compensation for an individual whose rights had been violated as a means of penalizing persons in authority who had committed an error which had caused an individual harm or injury. Compensation could be requested in both civil and criminal courts.

54. Article 26 of the Great Green Document on Human Rights in the Age of the Masses recognized the right of all citizens to take legal action in the event of an infringement of their fundamental freedoms.

55. The People's Court had been established for the purpose of ensuring that justice was applied overall and providing a consolidated basis for justice and security. It was competent to hand down rulings on all matters relating to citizens' freedom and rights on the basis of the relevant sections of part 4 of the Penal Code and in cases where the matter in question had not previously been dealt with by the competent authorities.

56. Recourse to the courts was free in the Libyan Arab Jamahiriya and the courts were required to ensure that all judicial safeguards, including access to defence counsel and legal assistance, were provided.

57. Fundamental freedoms and human rights were further safeguarded by article 35 of the Provisional Constitutional Declaration, which stated that no legislation contrary to the basic principles of justice might be enacted. Legal guarantees and the functions of the Supreme Court ensured that justice was administered in accordance with those principles and with article 14 of the Convention. Domestic legislation also provided that the courts could not use confessions extracted from detained persons, such confessions were regarded by the Supreme Court as null and void. Where it deemed necessary, a court could conduct an inquiry into the circumstances of charges and the validity of statements made in the context of any case. The Supreme Court

could order the release of any detained person when the procedure adopted by the officials responsible for the detention was incompatible with legal provisions or where they had exceeded their mandate.

58. In order to supplement section IV of the report on the treatment of prisoners, he informed the Committee that the prison authorities were required to monitor prison conditions and the conduct of prison officials and were entitled to authorize other competent persons to inspect prisons. The prison authorities worked in close cooperation with the Department of Public Prosecutions in order to improve conditions of detention and to ensure the maintenance of prison standards. The Department was also authorized to take steps to prevent the ill-treatment of prisoners and to prosecute those responsible for any ill-treatment which might occur. Prisoners condemned to light sentences were placed in open prisons, where they were allowed leave of absence to return to their homes.

59. In connection with article 10 of the Convention, steps were being taken to ensure that relevant education and educational materials were available at the secondary and university levels, particularly in law faculties. Information on the prohibition of torture was widely available.

60. Generally speaking, the State tried to strike a balance between its desire to be concerned with all aspects of its citizens' lives and the citizens' wish to ensure that individual rights and freedoms were respected. Where violations occurred, the Convention could be invoked in order to safeguard rights and freedoms. In that connection, he noted that there had been specific cases where legal and disciplinary action had been taken against State officials who had exceeded their authority and where penalties of imprisonment and fines had been imposed.

61. Mr. SORENSEN (Country Rapporteur) thanked the Libyan delegation for its report and oral introduction. He wondered whether, in view of the wide-ranging nature of that statement, the text could be made available for the Committee's files.

62. He asked for clarification of the value of the Libyan currency, which was variously referred to in the report as the pound, the dinar and the dirham.

63. He wished to have further information on the way in which the Libyan political and legal system worked, since it differed so widely from that of the countries with which he was familiar. He referred to paragraph 24 of the report and asked how, in practice, the law was made and brought into force, who took the initiative and who wrote the texts.

64. Referring to the words "the police fade away" in paragraph 20, he said he believed that the Libyan Arab Jamahiriya did have police officers and wished to know how they were educated, appointed and paid, whether there was a budget for the prison and police service and who decided on its size. How was the power of the people exercised in practice?

65. He wished to know how industry functioned in practice and who took decisions, in view of the affirmation in paragraph 14 that "it is not permissible ... for one person to act as another's proxy". Moreover, did the army have no officers?

66. He also wished to know how judges were appointed and whether they could be removed, what obligations prosecutors had and who conducted investigations into crimes.

67. He asked how the Convention had been ratified. Was there a Libyan minister for foreign affairs and had the Convention been approved by the equivalent of a parliament?

68. He had understood the Libyan representative to say that the Convention had higher status than domestic law, but he would like confirmation of that fact. In some countries, the provisions of the Convention were incorporated into domestic law; other countries merely stated that it was part of domestic law. Which method had been adopted by the Libyan Arab Jamahiriya and could a text of the relevant law be made available to the Committee?

69. Paragraph 29 of the report stated that some of the national legislation was currently being amended. He hoped that the relevant articles appeared in annex IV, to document CAT/C/9/Add.7, which was, however, available only in the original Arabic. It would have been very useful if those provisions could have been included in the text of the report because they would then have automatically been translated into the Committee's working languages.

70. He asked whether the definition of torture contained in article 1 of the Convention had been incorporated into Libyan legislation.

71. Article 2, paragraph 2, of the Convention provided that no exceptional circumstances whatsoever might be invoked as a justification of torture. He had also understood from the oral introduction that, where a superior officer or official gave an order for torture, he was liable to be prosecuted.

72. Referring to paragraph 31 of the report, he asked whether all prisoners had been released on the occasion of the 1988 pardon. In some cases, a general amnesty might be accompanied by a due obedience or similar act and he would like to know whether that had been the case in the Libyan Arab Jamahiriya in 1988.

73. In connection with article 3 of the Convention, he had found no mention of refoulement and requested information on relevant legislation, on the officials responsible for decisions in that connection and on statistics.

74. With regard to article 4 of the Convention and paragraphs 33 to 35 of the report, he asked whether the entire text of the definition of torture contained in the Convention was covered by the words "uses violence" in article 431 of the Libyan Penal Code. The Convention referred to "appropriate penalties" in that context, but article 431 seemed to indicate that the maximum penalty under Libyan law was a fine not exceeding 150 pounds; he would welcome clarification on that point.

75. Paragraph 37 of the report appeared to equate torture with more general violence. However, he knew of no offence which deserved more severe punishment than torture.

76. Further information would be appreciated on the implementation of articles 5, 6, 7 and 9 of the Convention.

77. Paragraph 22 (d) of the report referred to the people's right to freedom of education, but he pointed out that article 10 of the Convention concerned the duty of the State party to ensure that relevant education and information regarding the prohibition against torture were provided. The Committee would be interested to know whether such education and information were offered at the graduate and post-graduate levels and to all categories of persons mentioned in article 10.

78. Referring to article 11 of the Convention and paragraph 29 of the report, he requested information on the current rules and methods of interrogation and the proposed amendments to the relevant legislation. Also in connection with article 11 and article 16, further information concerning prisons would be welcome, particularly on their operation.

79. He would also like to have details on the death penalty, the methods used for execution and statistics covering the previous two years. Statistics on the number of prisoners in the different types of prisons and the number of deaths in prison would be of assistance to the Committee and further information on compliance with articles 13, 14 and 15 would be useful. While he was aware that it might not be possible for the Libyan delegation to provide immediate answers to all aspects of the questions he had raised, he hoped that additional information could be made available in writing.

80. Mr. BURNS (Alternate Country Rapporteur) thanked the Libyan representative for his extensive oral introduction, which had already answered several of his questions.

81. He asked for a description of the hierarchy of the courts and their jurisdiction in the Libyan Arab Jamahiriya. Could persons suspected of an offence be held for questioning and were they held in custody before being charged; if so, for how long could they be held and by whom? More importantly, could such persons be held incommunicado?

82. He wished to know whether confessions that had been extorted were admissible in legal proceedings.

83. In connection with article 6 of the Convention, he asked what legal regime existed in Libya to deal with a foreigner suspected of having committed torture in another country.

84. As to article 7, he inquired whether Libya had universal jurisdiction to try torturers in its territory who might have committed crimes elsewhere and could not be extradited or returned, perhaps because there were strong grounds to believe that torture might be practised against them if they were returned to the country where the acts had been committed.

85. In connection with article 9 of the Convention, he asked whether Libya had mutual judicial assistance arrangements with other countries, and if so, whether such assistance extended to the crime of torture or cruel or inhuman treatment.

86. Mr. GIL LAVEDRA thanked the Libyan delegation for its written and oral reports, which had provided a wealth of information. However, he agreed with

Mr. Sorensen that it would have been an advantage for the members of the Committee to have translations of the relevant Libyan legislative texts in their working languages.

87. The report did not comply with the Committee's guidelines for the preparation of reports, which should contain a general introduction on the political and legal system of the reporting State and a second part on compliance with the Convention article by article. Although the oral introduction had provided supplementary information it had not been translated into the Committee's working languages, and that prevented members from being able to understand the legal and political system in the Libyan Arab Jamahiriya.

88. He wished to know for which offences the death penalty could be imposed and to have a description of the way the judicial system was organized.

89. Was there a possibility of suspending rights and guarantees under exceptional circumstances; if so, which authority took the relevant decision and what was the scope of the suspension?

90. Paragraphs 33, 34 and 35 of the report referred to articles 431, 433 and 434 of the Libyan Penal Code, mentioning punishments of detention. He requested information on the length of periods of detention. In accordance with article 4 of the Convention, acts of torture had to be punished by appropriate penalties.

91. He stressed that work of the Committee would be facilitated if it could be informed of the exact degree of compliance with each article of the Convention.

92. In view of the many questions put by members of the Committee which it might not be possible for the Libyan delegation to answer that day, he suggested that it would be useful if Libya could submit an additional written report.

93. Mr. KHITRIN thanked the Libyan representative for his extensive oral introduction. However, since the written report did not contain enough information on compliance with the articles of the Convention, he endorsed Mr. Gil Lavedra's request for an additional report.

94. Mr. MIKHAILOV, having congratulated the Libyan representative on his oral introduction, said that, unfortunately, the written report was not in keeping with the Committee's guidelines so that it was hard to draw any conclusions about compliance with the Convention.

95. Paragraph 29 of the report quoted various legislative provisions, but it was not clear whether those provisions related specifically to torture or whether they were general provisions protecting the individual.

96. In connection with paragraph 36 of the report, which referred to article 435 of the Penal Code, he asked whether there was a definition of torture in Libyan legislation or whether the concept embodied in the Convention was applied.

97. Like Mr. Gil Lavedra, he wished to know what punishment was provided under article 433 of the Penal Code, as referred to in paragraph 34 of the report.

98. He had noted that the French and Russian versions of the words "detention with hard labour" in paragraph 43 (a) of the report did not tally. He wished to know whether the provision corresponded to the United Nations Standard Minimum Rules for the Treatment of Prisoners and whether the Libyan Arab Jamahiriya had ratified those Rules.

99. Mr. DIPANDA MOUELLE congratulated the Libyan delegation on its reports, but endorsed the comments made by Mr. Gil Lavedra and Mr. Khitrin. He had found it difficult to see whether Libyan legislation incorporated the articles of the Convention and what steps had been taken to implement that instrument.

100. He hoped that, in future, the Libyan Arab Jamahiriya could submit reports in keeping with the Committee's guidelines.

101. Mr. SORENSEN (Country Rapporteur) suggested that it would be preferable for the Libyan delegation not to give oral replies and for the Government of the Libyan Arab Jamahiriya to be requested to submit an additional written report following the Committee's guidelines, with answers to the questions put by the members of the Committee, and to attach the texts of the relevant legislation, which could be translated into the Committee's working languages.

102. The CHAIRMAN said that that suggestion would be in accordance with rule 67, paragraph 2, of the Committee's rules of procedure.

103. The additional report would enable the Committee to assess the extent to which the Libyan Arab Jamahiriya was implementing the Convention. To be consistent with the Committee's guidelines, it should contain a general section on policy, referring to the Convention article by article and indicating how it was applied in legislation and in practice. It should also state whether there had been any cases of torture, in what circumstances and how often, and what the response of the authorities had been. It would also be useful, as several members had suggested, for the additional report to contain the main legislative provisions referred to in the oral introduction so that they could be translated into the Committee's working languages. In preparing the additional report, assistance could be requested from the Committee and from the United Nations Centre for Human Rights.

104. If the additional report could be submitted by February 1992, the Committee could discuss it at its session in April 1992.

105. Mr. HAFYANA (Libyan Arab Jamahiriya) said that the Committee's difficulties seemed to arise from the fact that the Libyan report had been submitted in Arabic, which was, however, an official language of the United Nations and was spoken by 100 million people throughout the world.

106. The Committee's second difficulty was the lack of understanding of the political and judicial system of the Libyan Arab Jamahiriya.

107. There had also not been enough time for the Committee to study all the Libyan legislative texts. He confirmed that it was the intention of the Libyan Arab Jamahiriya to ensure that the Convention became part of Libyan legislation.

108. His oral introduction had been prepared in the light of the reports submitted by other States parties to the Committee at previous sessions and the questions put by members of the Committee. He had in fact compared Libyan legislation and judicial guarantees with the provisions of the Convention. However, he realized that the Committee had genuine difficulties and his Government would comply with its request.

109. The CHAIRMAN stressed that it was quite normal for the Libyan Arab Jamahiriya to have submitted its text in Arabic, an official language of the United Nations. He welcomed the assurance that the Libyan Arab Jamahiriya would submit an additional report for consideration by the Committee at its next session.

The meeting rose at 1.15 p.m.